

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

August 11, 2011

In the Matter of L.A. HOBSON, Minor.

No. 302130

Kent Circuit Court

Family Division

LC No. 09-051799-NA

Before: CAVANAGH, P.J., and WILDER and OWENS, JJ.

PER CURIAM.

Respondent-father appeals as of right from an order that terminated his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) and (3)(g). The parental rights of the child's mother were also terminated, but she is not participating in this appeal. We affirm.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination has been established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). This Court reviews that finding under the clearly erroneous standard. MCR 3.977(K); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re BZ*, 264 Mich App 286, 296-697; 690 NW2d 505 (2004).

Respondent's parental rights were terminated pursuant to MCL 712A.19b(3)(c)(i) and (3)(g), which provide as follows:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

* * *

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

Respondent argues that his reluctance in participating in services for reunification with the child was essentially "excused" because of the fact that the child was missing for a period of time when the mother absconded with the child out of state. Even if respondent could be excused for not taking affirmative steps during this period that the child was missing, respondent does not explain his failure to comply with the parent-agency agreement from the time the child was returned to Michigan in mid-October 2009 until the termination hearing in November 2010. The only effort respondent made on his parent-agency agreement was completing two sets of parenting classes and visiting consistently with the child after she was returned. It took him seven months to complete a psychological evaluation. He missed two separate appointments for substance abuse evaluations. He failed to engage in substance abuse or domestic violence counseling, and he never provided documentation of his attendance at AA/NA, his employment searches, his source of income, or his housing. Respondent's failure to participate is not attributable to the agency or the fact that the child was temporarily out of state. Respondent admitted that he simply chose to prioritize other things ahead of adhering to the plan because, although he was the child's legal father, he was not certain he was the child's biological father.

The conditions leading to adjudication — substance abuse, domestic violence, employment, housing, and parenting skills — remained unresolved more than a year after the child was adjudicated a temporary ward. There was nothing in the record to support a finding that the conditions could be rectified within a reasonable amount of time, given respondent's failure to participate in nearly any aspect of the parent-agency agreement and his failure to maintain contact with the worker. It was also clear that respondent was without the means to care for the child. He presented no proof of income and lived with his mother. He had unaddressed issues of domestic violence and substance abuse, consistently testing positive for marijuana throughout the proceedings.

We therefore conclude that the trial court did not clearly err in finding that there was clear and convincing evidence that there were sufficient grounds to terminate respondent's parental rights under MCL 712A.19b(3)(c)(i) and (3)(g).

Having found the statutory grounds for termination of respondent's parental rights proven by clear and convincing evidence, the trial court then had to determine whether termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5). To his credit, respondent consistently visited the child. But the value of these visits is suspect because there were many instances when respondent would not interact with the child, instead choosing to sit on his own while the child played independently. Furthermore, as noted earlier, respondent was without the means to care for the child and still had unaddressed issues of domestic violence and

substance abuse. Accordingly, there was clear and convincing evidence that termination of respondent's parental rights was in the best interests of the child.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Kurtis T. Wilder

/s/ Donald S. Owens